

## Environmental Protection Agency

## § 35.4110

the applicant or recipient in accordance with its dispute resolution procedures set forth at 40 CFR part 30, subpart L.

(b) If the State administers the TAG Program, any applicant or recipient who has been adversely affected by a State's action or omission may request Agency review of such action or omission, but must first submit a petition for review to the State agency that made the initial decision. The State must provide, in writing, normally within 45 days of the date it receives the petition, the basis for its decision regarding the disputed action or omission. The final State decision must be labeled as such and, if adverse to the applicant or recipient, must include notice of the right to request Agency review of the State decision under this section. A State's failure to address the disputed action or omission in a timely fashion, or in writing, will not preclude Agency review.

(1) Requests for Agency review must include:

- (i) A copy of any written State decision;
- (ii) A statement of the amount in dispute;
- (iii) A description of the issues involved; and
- (iv) A concise statement of the objections to the State decision.

(2) The request must be filed by registered mail, return receipt requested, within 30 days of the date of the State decision or within a reasonable time if the State fails to respond in writing to the request for review.

(c) The Agency shall determine whether the State's review is comparable to a Dispute Decision Official's (DDO) review pursuant to 40 CFR part 30, subpart L. If the State's review is comparable, the Regional Administrator will conduct the Agency's review of the State's decision. If the State's review is not comparable, an Agency DDO will review the State's decision and issue a written decision. If the Agency DDO issues a decision, the applicant or recipient may request a Regional Administrator's review of the decision. The applicant or recipient may request an EPA Assistant Administrator review of a Regional Administrator's decision pursuant to subpart L.

### § 35.4105 Record retention and audits.

(a) *Records and audit-recipient.* (1) Each recipient shall keep and preserve full written financial records accurately disclosing the amount and the disposition of any funds, whether in cash or in-kind, applied to the TAG project, and shall comply with the terms and conditions of the grant agreement.

(2) Such records shall be retained for ten (10) years from the date of the final Financial Status Report, or until any audit, litigation, cost-recovery, and/or any disputes initiated before the end of the 10-year retention period are settled, whichever is longer. A recipient must obtain EPA's prior written approval to destroy records after the record retention period.

(3) Recipients must comply with OMB Circular A-133 "Audits of Institutions of Higher Education and Other Non-profit Organizations," for all grants over \$25,000.

(b) *Records and audit-contractor(s).* (1) The recipient shall require its contractor(s) to keep and preserve detailed records in connection with the contract, reflecting acquisitions, work progress, reports, expenditures, and commitments and indicating their relationship to established costs and schedules.

(2) Contractors must retain records for a period of 10 years after the termination or end of the contract.

(Approved by the Office of Management and Budget under control number 2030-0020)

### § 35.4110 Reports.

(a) *Progress reports.* Each recipient shall submit quarterly progress reports to EPA for the TAG project 45 days after the end of each calendar quarter. Progress reports shall fully describe in chart or narrative format the progress achieved in relationship to the approved schedule, budget, and the TAG project milestones. Special problems encountered must be explained.

(b) *Financial status report.* Each recipient shall submit to EPA a financial status report annually, within 90 days after the anniversary date of the start of the TAG project, and within 90 days after the end of the grant budget period and project. A recipient shall submit to